TESTIMONY OF RALPH GOFF, BOARD CHAIR

SOUTHERN INDIAN HEALTH COUNCIL, INC.

REGARDING H.R. 1239

BEFORE THE HOUSE COMMITTEE ON RESOURCES

October 17, 2001

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to be here today to present testimony in regard to H.R. 1239. My name is Ralph Goff and I am chairman of the Board of Directors of Southern Indian Health Council, Inc. (hereinafter SIHC). I also serve as the Tribal Chairman of the Campo Band of Mission Indians. With me today is Joe Bulfer, Executive Director of SIHC. Also in the audience are Kenneth Mesa, SIHC Board member and Chairman of the Jamul Band of Mission Indians, and Robert Brown, SIHC Board member.

SIHC is a tribal organization providing health care services to the approximately 8,000 Indians living on and near seven (7) Indian Reservations in Southern San Diego County, California, through an Indian Self-Determination Act, P.L. 93-638, contract with the U.S. Department of Health & Human Services, Indian Health Service (IHS). We have provided health services through P.L. 93-638 contracts since our inception in 1981 (and incorporation in 1982). SIHC is a consortium of the following seven (7) federally-recognized Indian tribes which joined together to provide ambulatory health care services to their members and other eligible Indians in their service area:

Barona Band of Mission Indians

Campo Band of Mission Indians

Ewiiaapaayp (Cuyapaipe) Band of Mission Indians

Jamul Band of Mission Indians

La Posta Band of Mission Indians

Manzanita Band of Mission Indians

Viejas Band of Mission Indians

Through SIHC, these seven tribes provide health care and related services to their tribal members and other eligible Indians through the establishment of a comprehensive health care system for the Indians of Southern San Diego County. Besides providing health care services, SIHC works to improve the environmental health and sanitation conditions on Indian Reservations in San Diego County; to provide improved heath care for children and adults through a program of home visitation and counseling of Indian parents on health practices, nutrition and general care of children and adults; to provide health education to the Indian community; and to inform the member tribes and the Indian community of the various medical and related

services available in the surrounding community and assist them in obtaining the services through a social services department. We do so through a system of four clinics: one on the Campo Reservation and one on the Cuyapaipe Reservation, one outpatient substance abuse center at the La Posta Reservation, and one inpatient Youth Regional Treatment Center**,** also at the La Posta Reservation.

From the Indian Health Service (IHS), SIHC receives funding for provision of health care services for approximately 8,000 Indians in its service population. SIHC receives approximately $4.5 million from IHS and approximately $5.5 million from other grants and contracts with other agencies. However, according to IHS's own figures, SIHC only receives about 60% of the funds we need to provide comprehensive health care services for service population.

As the Committee is aware, the IHS has historically not provided the same services or level of services for federally-recognized Indian tribes in California as it does for tribes in other parts of the country. Although the Federal Courts ordered IHS to correct these funding inequities in the early 1980's in the case of *Rincon Band of Mission Indians v. Harris*, IHS never fully complied and corrected these inequities.

IHS has never provided funding for facilities in California, nor has it built or operated any health care facilities or hospitals for Indians in California. The only services provided for the 117 federally-recognized tribes in the State of California are those that the tribes themselves are providing through Indian Self-Determination Act contracts in facilities which the tribes have built with funding from a variety of sources, but none from IHS.

With the history of underfunding and neglect by IHS, the Committee should be able to clearly see the importance of the SIHC agreement with the Ewiiaapaayp Tribe that will provide us with a new and enlarged facility in Alpine, a new clinic on the Campo Reservation, and with additional funding every year for the next 36 years. All that we had to do to obtain these substantial advantages was to give up a portion of our existing leasehold property on the Cuyapaipe Reservation. Despite rumors to the contrary, the agreements we have entered provide that SIHC is not required to move until a new clinic facility is built for us and ready for our occupancy. No other SIHC member tribe has offered to provide SIHC funding to improve SIHC's health care services and facilities. All were given the opportunity.

We would appreciate the Committee reviewing and understanding this opportunity provided by Ewiiaapaayp in the context of the funding deficiencies that SIHC has suffered through the years. Because there were no IHS facilities on any Indian reservation in our service area, or anywhere in California, we started out in small tribally-rented trailers on the Sycuan Indian Reservation. From there we moved the trailers to the Barona Reservation; and, finally, we moved to new buildings on the land in Alpine where our clinic is currently located. Although we wanted to have the land in Alpine put into trust for all seven SIHC member tribes, the BIA would not do so at the time. Therefore, Ewiiaapaayp agreed to have the land that was purchased put into trust in its name and leased the land back to SIHC for the maximum term allowed by law (25 years plus a 25 year extension) at a cost of $1 per term. We subsequently obtained funding from HUD to build our original clinic buildings on that land. Through the entire 20 years of our existence, SIHC has struggled to provide the highest level of services possible to the Tribes and to all eligible Indians in our service area, but we have been forced to do so in the face of significant underfunding, lack of adequate facilities, and the need to purchase all hospital and specialty care from outside providers with a limited IHS/Contract Health Services budget.

About five years ago the Ewiiaapaayp Tribe came to the SIHC Board with a proposal to substantially enhance SIHC's facilities and health care funding. After many delays and lengthy debate, an agreement was

finally negotiated that provides that SIHC would relinquish a portion of the currently leased lands back to the Ewiiaapaayp Tribe (hereinafter "the Tribe"). In exchange for the relinquishment of a portion of that land, the Tribe will finance, construct, and equip a new $5 million clinic for SIHC that will be all in one building, rather than several, and which will be significantly larger and more efficient than the current clinic on the leasehold property. The Tribe will also build a badly needed new $1.5 million facility for SIHC's use on the Campo Indian Reservation. In addition, the Tribe has agreed to purchase approximately 18 acres of land across the freeway from the existing clinic, and, contingent upon federal approvals lease that land to SIHC for fifty years and finance the construction of a $5 million new clinic on that property. Finally, the Tribe agreed to pay SIHC a portion of its annual revenues through the year 2036 which will come from the Tribe's construction and operation of a gaming facility on the portion of the currently leased premises that SIHC would vacate when the new facility was fully constructed and ready for occupancy. These provisions will clearly allow SIHC to provide better services to our eligible Indian patients. The Board, therefore, determined that these Agreements were in the best interests of SIHC and our patients.

In each of these transactions, SIHC's patients and services are fully protected because no move out of any existing facility can or will be required until the new facility is built, equipped, and ready for occupancy. Contrary to rumor, never can SIHC be required to move into trailers, temporary buildings, or other inadequate facilities. Nor will there ever be a disruption in services because of the specific provisions of the contracts protect SIHC in this regard and insure that **SIHC will not be required to vacate any facility until the new replacement facility is completely ready for occupancy, as determined by the SIHC.**

Questions have apparently been raised with this Committee about the internal workings and decisions of the Board of Directors of SIHC. SIHC is incorporated as a California non-profit corporation. The SIHC Board consists of seven members, with one Board member selected by each tribe being served by the program who represents his or her tribe on the Board. Although each of the seven tribes appoints its own representative to the SIHC Board of Directors in accordance with the corporate Bylaws, the tribes themselves do not have any direct right to vote on the decisions of SIHC except through their designated representatives on the Board.

Clearly, H.R. 1239, under consideration by this Committee, allows any one tribe to veto the duly-adopted decisions of the Board of Directors of SIHC. This Bill also allows any one tribe to thwart SIHC's attempt to improve health care for all the Indians in the region in accordance with our duly-adopted Bylaws and mission statement. If H.R. 1239 were enacted, that legislation would, in effect, give one tribe unprecedented veto power over the decisions of the other six tribes. It would also give any one tribe veto power over the duly-adopted decisions of the Board of Directors of SIHC, which flies in the face of SIHC's Bylaws and California corporations law.

SIHC is governed by its Bylaws and California non-profit law. At a meeting on July 10, 2000, the Board of Directors voted on Resolution 00-07-10-01 to approve the above-described transactions because they found that the expansion of health care, as stipulated in the agreements, were in the best interests of all of SIHC's patients. This original resolution was approved by a vote of three in favor, two against, and one abstaining. The Director appointed by the Ewiiaapaayp Tribe was absent. Historically the Board has treated abstentions as neutral in its votes (i.e., abstentions have never been counted in determining whether there is a majority vote). Because the SIHC Bylaws did not specifically address this issue, after proper notice, the Board voted 5 to 2 on November 27, 2000 to amend the Bylaws to clarify and reaffirm its long term interpretation of its own Bylaws. Then, to eliminate any further question, on December 18, 2000, the Board reaffirmed its intention to enter into the agreements by a vote of 4 in favor and one abstention.

In summary, the July 10, 2000 Board approval of the transactions with the Ewiiaapaayp Tribe was a valid act of the Board which was subsequently reaffirmed by a vote on December 18, 2000. Since the decision was made to enter the agreements with Ewiiaapaayp, the entire SIHC Board has moved forward together to see that the decision is implemented because of the advantages it would provide for the health care of their tribal members. In other words, although one or two of the member tribes might have initially disagreed with the decision to approve the agreements with Ewiiaapaayp for reasons having nothing to do with the provision of health care, there is full and equivocal support for those agreements within the SIHC Board, now that the vote has been taken and a decision made.

The proposed legislation, H.R. 1239, would prevent SIHC from improving the health care for the approximately 8000 Indians in our service population through the new facilities and additional funding that the agreements with Cuyapaipe would provide. Therefore, we urge that the Committee refuse to approve the proposed legislation, or any similar legislation.

Thank you for the opportunity to appear here today. We will be happy to answer any questions which the Committee might have.

Respectfully submitted,

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Chairman of the Board of Directors

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